

The Second Division consisted of the regular members and in addition Referee W. J. Peck when award was rendered.

Parties to Dispute: ( Brotherhood Railway Carmen of the United States and Canada  
( Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated provisions of Rule 5 and Rule 21 of the controlling Agreement in improperly posting bulletin, Holiday forces at Palestine, Texas, December 30, 1980.
2. That the Missouri Pacific Railroad Company be ordered to compensate Carmen D. G. Denson, R. G. Morris and R. G. Young, in the amount of eight (8) hours each at the punitive (sic) rate of pay.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On the date of December 26, 1980 at Carrier's repair facility at Palestine, Texas, Carrier posted a notice advising the Claimants that they would be required to work on January 1, 1981, a holiday. Then on date of December 30, 1980, Carrier posted another notice advising the Claimants that they would not be required to work on January 1, 1981 holiday. The Employees contend that Carrier's action in posting the second notice only two (2) days before the holiday was not timely and was therefor in violation of Rules 5 and 21 of the controlling agreement.

Carrier contends that they have complied with the terms of Rule 5 in that they did give the required five (5) days' notice (actually 6) to those employees required to work the holiday, and that even though they did not work the holiday, the Claimants were paid the holiday pay at straight time rate. The Carrier further contends that Rule 21 covers force reductions or job abolishments and accordingly is not applicable to this dispute.

Rule 5 reads in part:

"Rule 5.

Relief work. Rest days and holidays.

Note: Notice will be posted five (5) days preceding a holiday listing the names of employees assigned to work on a holiday. Men will be assigned from the men on each shift who would have the day on which the holiday falls as a day of their assignment if the holiday had not occurred and will protect the work. Local Committee will be advised of the number of men required and will furnish names of the men to be assigned, but in the event of failure to furnish sufficient employees to complete the requirements, the junior men on each shift will be assigned beginning with the junior man."

Rule 21 reads in part:

"Rule 21

Reduction of forces.

- (a) When the force is reduced seniority as per Rule 25 will govern; the men affected to take the rate of the job to which they were assigned. Employees displaced through the abolition of jobs or force reductions and other employees so affected thereby will be allowed to place themselves on such jobs as their seniority entitles them to, but only such employees who are actually disturbed by the rearrangement of jobs or abolition of jobs will be permitted to exercise their seniority in this manner. Positions that have been abolished (not as a result of force reductions) and re-established within six (6) months, the employee regularly assigned to the position at the time of its abolishment will be reassigned to the position regardless of seniority provided he applies therefor when the position is bulletined.
- (b) If the force is to be reduced, four (4) working days' notice will be given the men affected before reduction is made and lists will be furnished the general and local committees except no more than sixteen (16) hours advance notice is required before abolishing positions or making force reductions under emergency conditions such as flood, snow storm, hurricane, earthquake, fire or strike, provided the Carrier's operations are suspended in whole or in part and provided further that because of such emergency the work which would be performed by the incumbents of the position to be abolished or the work which would be performed by the employees involved in the force reductions no longer exist or cannot be performed."

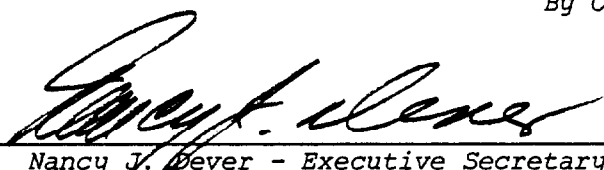
The previously cited Rule 5 requires the Carrier to give five (5) days advance notice to employees required to work a holiday. The employees were actually given a six (6) day notice. The rule is silent as to how much, if any, notice must be given before the holiday work assignment can be cancelled. In this case the Claimants were given two (2) days (or a little less) notice. Carrier is therefore in compliance with the five (5) day notice provisions of the rule and since no particular time is stipulated for cancellation of the notice, and since the Claimants were given about or almost two (2) days we find no violation of Rule 5. Rule 21 clearly applies to force reductions or job abolishments, in this case there were no force reductions or job abolishments, all that occurred was the cancellation of some planned overtime found not to be needed. Accordingly we do not find any violation of Rule 21. We must deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 31st day of October 1984.